

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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WEK INDUSTRIES, INC.,

Plaintiff,

-vs-

BISHOP TOOL & DESIGN, INC.,

Defendant.  
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: CASE NO. 1:05 CV 2844  
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: ORDER ADOPTING REPORT AND  
: RECOMMENDATION AND GRANTING  
: DEFAULT JUDGMENT IN FAVOR OF  
: PLAINTIFF  
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UNITED STATES DISTRICT JUDGE LESLEY WELLS

This matter is before the Court on plaintiff WEK Industries, Inc.'s ("WEK") motion for default judgment. On 8 December 2005, plaintiff WEK Industries, Inc. ("WEK") filed a complaint against defendant Bishop Tool & Design, Inc. ("Bishop") alleging breach of contract and breach of express and implied warranties. (Docket No. 1). The defendant failed to file an answer to the plaintiff's complaint. (See Docket Nos. 13, 14).

Accordingly, the Clerk of Courts made an entry of default pursuant to Fed. R. Civ. P. 55(a) against Bishop on 13 December 2006 (Docket No. 15). Pursuant to Rule 55(b), WEK motioned the Court for an order of default judgment in its favor. (Docket No. 16).

The matter was referred to United States Magistrate Judge William H. Baughman for the purpose of convening a default judgment hearing and preparing a Report and Recommendation ("R&R"). (Docket No. 17). Magistrate Judge Baughman held a hearing on the motion on 15 May 2007 and filed his R&R on 15 June 2007. (Docket No. 23). The Magistrate Judge's well-reasoned R&R recommended findings of fact and

conclusions of law with respect to the contract dispute between the parties. Id. He recognized that because of the entry of default, the only remaining issue to be resolved was the amount of damages. Id. The Magistrate Judge advised that WEK sustained damages in the amount of \$219,129.86, but recommended that because the prayer in the complaint was \$200,000, a default judgment could not exceed that amount. Id. Magistrate Judge Baughman therefore recommended that the Court make an entry of default judgment in favor of WEK in the amount of \$200,000. Id.

The parties were afforded ten days to object to the Magistrate Judge's recommendation, and neither party has filed objections. Therefore, the Court must assume that the parties are satisfied with the Magistrate Judge's R&R. Any further review by this Court would be a duplicative and inefficient use of the Court's limited resources. Thomas v. Arn, 474 U.S. 140 (1985); Howard v. Secretary of Health and Human Services, 932 F.2d 505 (6th Cir. 1991); United States v. Walters, 638 F.2d 947 (6th Cir. 1981).

Accordingly, the Court adopts the findings of fact and conclusions of law recommended by Magistrate Judge Baughman. Default judgment is hereby entered in favor of plaintiff WEK Industries, Inc. and against Bishop Tool & Design, Inc. in the amount of \$200,000.

IT IS SO ORDERED

/s/Lesley Wells  
UNITED STATES DISTRICT JUDGE

Date: 10 July 2007